

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

BRANDON HEARNS,

Plaintiff,

v.

Civil Action No. 1:05cv151  
(Judge Keeley)

JIM RUBENSTEIN, Commissioner,  
WILLIAM HAINES, Warden,  
TOM WRATCHFORD, Correctional Officer,  
WEST VIRGINIA DIVISION OF CORRECTIONS,  
NATIONAL UNION FIRE INSURANCE  
COMPANY OF PENNSYLVANIA,

Defendants.

ORDER DENYING PLAINTIFF'S MOTION FOR APPOINTED COUNSEL

The issue before the Court is the plaintiff's motions for appointment of counsel, filed on November 5, 2007 and January 4, 2008.<sup>1</sup> In support of these motion, the plaintiff asserts that he is "ignorant to the law." In addition, the plaintiff asserts he "do[es] not feel like [he] can win this by [him]self."

In contrast to criminal proceedings, appointment of counsel in a civil case is not a constitutional right; it is a decision within the Court's discretion. See 28 U.S.C. § 1915(e)(1). The Court should request counsel to represent an indigent only after a showing of a particular need or exceptional circumstances. Cook v. Bounds, 518 F.2d 779 (4<sup>th</sup> Cir. 1975). "The question of whether such circumstances exist in any

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<sup>1</sup> The motions are actually in the form of letters requesting counsel, but this Court will treat them as motions for the purposes of consideration.

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particular case hinges on characteristics of the claim and the litigant." Whisenant v. Yuam, 739 F.2d 160, 163 (4<sup>th</sup> Cir 1984).

In this case, the Court finds that the plaintiff has failed to show a particular need or exceptional circumstances which would require the assistance of a trained practitioner. Therefore, the plaintiff's motions for appointed counsel (dkt. nos. 51 & 56) are **DENIED**.

It is so **ORDERED**.

The Clerk is directed to mail a copy of this Order to the *pro se* plaintiff.

DATED: January 10, 2008.

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE